

Ex 29 - Excerpts of the Deposition of Nathan Hartle taken 7/31/18 in MDL 2804

Plaintiffs' Opposition to Defendants' Motion for Summary Judgment on
Proximate Causation Grounds

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster
12)

13 TUESDAY, JULY 31, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Nathan J.
18 Hartle, held at the offices of Covington &
19 Burlington, LLP, One City Center, 850 Tenth
20 Street Northwest, Washington, DC, commencing
21 at 9:04 a.m., on the above date, before
22 Carrie A. Campbell, Registered Diplomate
23 Reporter, Certified Realtime Reporter,
24 Illinois, California & Texas Certified
25 Shorthand Reporter, Missouri & Kansas
Certified Court Reporter.

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GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

1 responsibility for failing to prevent the
2 diversion of narcotics in America. That's
3 what you were accepting responsibility for in
4 the 2017 settlement agreement, true?

5 MS. HENN: Objection to form.

6 THE WITNESS: Again, I'd like
7 to look at, I mean, the language. I
8 know we accepted --

9 QUESTIONS BY MR. RAFFERTY:

10 Q. You don't know?

11 A. No, I do. We accepted
12 responsibility --

13 Q. For --

14 A. -- you know.

15 Q. The allegations in that, you
16 know what the allegations were, right?

17 A. Right.

18 Q. And they surround McKesson's
19 failure to prevent diversion in America,
20 diversion of narcotics in America, true?

21 MS. HENN: Objection to form.

22 QUESTIONS BY MR. RAFFERTY:

23 Q. You know that.

24 MS. HENN: Objection to form.

25 THE WITNESS: I understand,

1 Is there a relationship between
2 the number of pills that get sold and the
3 number of pills that get diverted?

4 MS. HENN: Objection to form.

5 THE WITNESS: It's hard to say,
6 but you could assume that the -- you
7 know --

8 QUESTIONS BY MR. FARRELL:

9 Q. I don't want you to assume.

10 A. Yeah.

11 Q. I want you to use common sense.

12 A. Yeah. Using common sense and
13 basic logic, you could assume the more pills
14 that are out there, the more potential for
15 diversion there could be.

16 Q. So if I were to tell you that a
17 company sold 100 pills and 10 of them got
18 diverted, and then I come back to you and say
19 a year later, a thousand pills got sold, what
20 does common sense and logic tell you as
21 McKesson Corporation how many pills get
22 diverted?

23 MS. HENN: Objection to form.

24 THE WITNESS: I don't think
25 it's that easy of a connection to say

1 played a role.

2 QUESTIONS BY MR. FARRELL:

3 Q. Does McKesson believe the
4 manufacturers fueled the use of prescription
5 painkillers?

6 MS. HENN: Objection to form.
7 Outside the scope.

8 THE WITNESS: I think they
9 played a role. I think there's many
10 reasons -- many things that fueled the
11 epidemic.

12 QUESTIONS BY MR. FARRELL:

13 Q. So would you rather just punt
14 on the question?

15 MS. HENN: Objection to form.

16 THE WITNESS: That's what I'm
17 going to share. That's my answer.

18 QUESTIONS BY MR. FARRELL:

19 Q. So yes or no, does McKesson
20 Corporation believe manufacturers fueled the
21 use of prescription painkillers?

22 MS. HENN: Objection to form.
23 Outside the scope.

24 THE WITNESS: Like I said,
25 my -- they're part of the system.

1 They played a role.

2 QUESTIONS BY MR. FARRELL:

3 Q. So the answer is?

4 A. They played a role. I wouldn't
5 say -- I wouldn't characterize it as fueled.
6 I don't know that I would use that language.

7 Q. Fair enough.

8 The next page, 5 and 6,
9 document Purdue Pharma's \$635 million fine,
10 Cephalon's \$425 million fine.

11 Going to page 7, it's comparing
12 the US rates of opioid overdose deaths, sales
13 and treatment admissions.

14 Do you see that?

15 A. I see that.

16 Q. What is the correlation between
17 opioid sales and opioid deaths? Are they
18 related or unrelated?

19 MS. HENN: Objection to form.

20 THE WITNESS: They're both
21 increasing at a similar rate.

22 QUESTIONS BY MR. FARRELL:

23 Q. So that means they're related
24 or unrelated?

25 MS. HENN: Objection to form.

1 Obviously, it's going to be
2 subject to the objection of your
3 lawyers, and I just wanted to place
4 that on the record.

5 QUESTIONS BY MR. FARRELL:

6 Q. Jumping in real quick, I'm not
7 going to spend a whole lot of time on this; I
8 have a very specific question.

9 Before we get into the
10 document, there's a reference in here about
11 heroin, and I just wanted to see if I could
12 cut to the chase with you.

13 A. Okay.

14 Q. As the McKesson corporate
15 representative, do you acknowledge that abuse
16 of prescription opium pills is a gateway to
17 the initiation of heroin?

18 MS. HENN: Objection to form.
19 Outside the scope.

20 THE WITNESS: Based on
21 everything that I've read and in the
22 media and statistics and discussion, I
23 would agree -- agree to that.

24 QUESTIONS BY MR. FARRELL:

25 Q. If you abuse prescription

1 opiates, the CDC says that you're 40 times
2 more likely to initiate heroin use.

3 Does McKesson acknowledge
4 that -- that prescription opiate pill abuse
5 is a driving factor in the heroin epidemic
6 we're also experiencing?

7 MS. HENN: Objection to form.
8 Outside the scope.

9 THE WITNESS: Yeah, it's a
10 factor.

11 QUESTIONS BY MR. FARRELL:

12 Q. That was easy.

13 A. Yeah.

14 Q. All right. Back to this amicus
15 business.

16 (McKesson-Hartle Exhibit 38
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to mark as
20 Exhibit 38, it's 2016_04_04. This is another
21 amicus brief. This one is Masters
22 Pharmaceutical.

23 Does McKesson acknowledge that
24 in 2016 when this amicus brief was submitted
25 that it was still on the executive committee